

No. 14/13/87-6Lab./63.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court-I, Faridabad in respect of the dispute between the workman and the management of M/s Sikand Pvt. Ltd *versus* Shri Ramesh Kumar (Operator) Sh. Mohan Lal (Setter).

BEFORE SHRI N. L. PRUTHI, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, FARIDABAD.

Reference No. 159 of 87

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IN THE MATTER OF INDUSTRIAL DISPUTE

between

1. SH. RAMESH KUMAR (OPERATOR)
2. SH. MOHAN LAL (SETTER) C/O SH. K. L. SHARMA, VICE-PRESIDENT,
HARYANA INTUC, G-15, OLD PRESS COLONY, FARIDABAD .. *Workers*

and

M/S SIKAND PVT. LTD., 61, NEW INDUSTRIAL TOWNSHIP, FARIDABAD

.. *Management*

Present :

Sh. H. R. Dua, Authorised Representative for the workman.

Sh. R. C. Sharma, Authorised Representative for the Management.

AWARD

Two of the references received from the State Government under Section 10(1)(d) of Industrial Disputes Act, 1947,— *vide* Endorsement Nos. 27242-47 and 27235-40, dated 14th July, 1987 with regards to service matters of Ramesh Kumar (Operator) and Mohan Lal (Setter) were consolidated,—*vide* orders dated 13th July, 1987 and proceedings were to take place in the reference titled Ramesh Kumar *versus* Sikand Pvt. Ltd (Reference No. 159/87)

2. The case of the workman Ramesh Kumar is that he was appointed as Operator with effect from 16th January, 1979 and his last drawn wages were Rs. 909 p.m. He was wrongfully dismissed from service on 18th January, 1987 after holding a domestic enquiry. Workman Mohan Lal has contended that he was appointed as Setter with effect from 1st February, 1971 and his last drawn wages were from Rs. 1061 p.m. He, too, was dismissed from service in a wrongful manner on 18th February, 1987 on the basis of a domestic enquiry.

3. According to both the workmen, domestic enquiry was an eye wash. The Enquiry Officer Satish Ahuja had all along been playing in the hands of the Management and used to put pressure on the workmen to resign and take their full and final dues otherwise, he would hold them guilty and subsequently face dismissal. It has also been alleged that the statements of witnesses examined during enquiry were twisted to the advantage of the Management and the Enquiry Officer did not take note of the objections raised by the workmen. The enquiry Officer is also alleged to have ignored discrepancies in the Statements of the witness produced before him and gave his report on the dictates of the Management. The workmen have also alleged that they were holding high offices in the union of the workers and were signatories to wage increase settlement etc. and for that reason had become eye sore to the Management. They are also alleged to have received threats from the Management to give up trade union activities otherwise they would be entangled by hook or by crook. It is on the above facts that the workmen have claimed reinstatement with full back wages and continuity of service.

4. The case of the Management is that both the workers had abused and given beatings to their fellow worker Surjit Kumar on 23rd November, 1986. Since the complaint made related to a serious happening and spoiled the entire discipline of the factory. both the workmen were issued charge-sheet. The replies furnished by them were not found to be satisfactory. So, Satish Ahuja was appointed as Enquiry Officer and notice thereof was given to the workmen also. The Enquiry Officer had found both the workmen guilty of the charges levelled against them. After issuing show cause notices to each of the two workmen and after taking into consideration their replies and also their past bad record, both the workmen were dismissed on 18th February, 1987. According to the Management, the Enquiry proceedings were conducted according to principles of natural justice, and standing orders. According to the Management, it was a participated enquiry and full opportunity was given to the workmen to cross-examine the witnesses of the Management and also to produce their evidence in defence. The Management has thus contended that the enquiry being fair and proper, the punishment of dismissal inflicted upon the workmen for the charges of serious nature was legal and justified. On the trade union activities of the workmen, stand of the Management is that the workmen were once elected office bearers but were later on discarded and not elected again. According to Management they were not holding any office at the time they were charge-sheeted. An additional plea has also been taken that the workmen are gainfully employed and well placed in life. On the above facts the Management has opposed the case of both the workmen..

5. In the rejoinder, pleas taken in the claim statements were reiterated while those in the written statements, controverted.

6. On the pleadings of the parties, following issues were framed : -

- (1) Whether the enquiry is fair and proper? OPM
- (2) As per reference? OPM

Issue No. 1

7. Satish Ahuja examined as MW-1 stated that he conducted domestic enquiry against both the workmen namely Ramesh Kumar and Mohan Lal in respect of charges contained in Ex. M-3 and Ex. M-4. Before holding enquiry he gave notices Ex. M-1 & Ex. M-2 to both workmen. The enquiry officer also stated that both the workmen had participated in the enquiry proceedings which are Ex. M-5. Enquiry report submitted by him to the Management is Ex. M-6. The witness stated that since charges against both the workmen were of the same nature he had conducted joint enquiry. The witness also stated that the enquiry was conducted by him on the time office and it was there that the Standing Orders were displayed and made use of as and when required. The witness denied that he had been pressurising the workmen during the course of enquiry to tender resignations otherwise the report would be made against them.

8. Workman Mohan Lal examined as WW-1 stated that the Enquiry Officer had orally rejected his request to avail of the services of co-worker Ranjit Singh to represent him in the enquiry. The workman also stated that he was given 5-7 minutes time to go through the Standing Orders which he could not do because the same were in English Language which he did not know. The workman denied that he was provided full opportunity during the course of enquiry or that his dismissal was ordered in accordance with Standing Orders. In his cross-examination workman Mohan Lal admitted that his signatures also the signatures of Ramesh Kumar were thereon the enquiry proceedings. He also admitted receipt of copy of enquiry proceedings. The workman denied that he or his co-worker Ramesh Kumar had told the Enquiry Officer that they would represent their case by themselves.

9. Workman Ramesh Kumar examined as WW-2 stated that he was President of Workers Union while Mohan Lal was the General Secretary. The witness stated that despite requests, the Enquiry Officer did not provide facilities and even refused to receive his letters and also did not allow him to bring an outsider for his assistance, and that list of witnesses was also not given by the Enquiry Officer. The workman admitted his signatures having been taken in token of receipt of enquiry proceedings and enquiry report but actually neither copy of proceedings nor of the report were given to him. While being examined during enquiry proceeding this workman admitted the factum of man-handling Surjit Kumar although in self defence as the former was using abusive language and also indulging in skirmishes.

10. The statements made by both the workmen shows that they had participated in the enquiry proceedings and had appended their signatures on the day to day proceedings and had also received copies thereof as also of the enquiry report. The enquiry proceedings Ex.M-5 show that opportunity was given to the workmen to cross-examine the witnesses of the Management. Questions by way of cross were, of course, put to some of the witness but opportunity to do the same was provided in respect of all the witnesses. The workman had, apart from making their own statements produced three witnesses as well. No question what-so-ever was put to the enquiry officer that he had not given them a list of witnesses or that he had not provided them any facilities. It was also not asked from the Enquiry Officer that he had turned down their request for allowing a co-worker to assist them or that he did not note down their objections or was holding the enquiry only as an eye wash. It was also not put to the Enquiry Officer that he was holding the enquiry on the dictates of the Management or that it was pre-determined enquiry and that he would give his report in favour of the management.

11. So, in the context of all that has been discussed above, it is held that the enquiry held into the charges against both the workmen was fair and proper and no violation what-so-ever had been made of the principles of natural justice. This issue is decided accordingly.

Issue No. 2

12. The management had dispensed with the services of workman Mohan Lal and Ramesh Kumar because both of them had been found by the Enquiry Officer to be guilty of abusing and beating their fellow workman Surjit Kumar on 23rd November, 1986. Legally speaking this court cannot sit in judgement over the decision of the management in dismissing its workman. The proven misconduct is quite of a serious nature. For that reason, the reinduction into service of the workmen by inflicting lesser punishment would not be conducive for maintaining proper discipline. However, invoking the provisions of Section 11A of the Industrial Disputes Act, 1947, I award *ex-gratia* an amount of Rs. 20,000 (Twenty thousand only) to workman Ramesh Kumar and Rs. 30,000 (Thirty Thousand only) to workman Mohan Lal on compassionate grounds in view of long service of 15 years and 23 years respectively put in by them.

N. L. PRUTHI,

Presiding Officer,
Industrial Tribunal-cum-
Labour Court-I, Faridabad.

Endorsement No. 15, dated the 5th January, 1995

A copy with, three spare copies, is forwarded to the Commissioner and Secretary to Government of Haryana, Labour Department, Chandigarh.

N. L. PRUTHI,
Presiding Officer,
Industrial Tribunal-cum-
Labour Court-I, Faridabad.